IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.2335 OF 2000.

Shri Sharad Audumbar Savane..... ... Petitioner.

V/s

The State of Maharashtra & Ors..... ... Respondents.

Mr.S.V. Sakhare, Adv. For the petitioner.

Mr.A.P.Vanarse, AGP for State-R.No.1 to 3.

CORAM: V.G. PALSHIKAR
AND
D.B. BHOSALE, JJ.
19.8.2005

PC:

By this petition the petitioner has challenged the order passed by the Maharashtra Administrative Tribunal rejecting the original application filed by the petitioner claiming that a direction to the State to consider and appoint the petitioner on the post of Assistant Motor Vehicle Inspector in pursuance of the advertisement dated 6.5.1998. On the date of application the petitioner did not possess heavy vehicle driving licecne though he had a valid and continuous licence to operate and drive light motor vehicle.

2. The contention of the petitioner is that the Government of India has issued a circular for employment of retired or discharged forces personnel. He is one such person who has been discharged after honourable service of 15 years or more. He holds educational qualifications therefore the condition of requiring heavy motor vehicle

licence was liable to be relaxed in pursuance of Government Resolution dated 1.4.1986. By this circular the Government of Maharashtra has issued instructions to various departments that they should make suitable changes in the recruitment rules to clause III and IV posts so that ex-servicemen can be appointed to such posts. This circular also has the sanction or consent of the Maharashtra Public Service Commission. Factually necessary changes in the recruitment rules have not been made. The contention is that a direction is liable to be issued by this Court requiring making of such changes. It is an established position in law that the Court cannot order legislation. Making changes in recruitment rules undoubtedly is making change in subordinate or delegated legislative function. This Court cannot issue such a mandamus apart from that even the advertisement itself postulates that holding of heavy vehicle driving licence is an essential qualification and not desirable qualification. Had it only been desirable qualification some recourse could be taken to the resolution/circular dated 1.4.1986. In such circumstances we see no error in the order passed by the Tribunal. Petition is therefore dismissed.